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# Johanna Geever v. Chester L. Geever

Petition for Rehearing 1975-SC-0685

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**KYSC1975-SC-0685-01**

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{134944}{54-130314:141534}{061876}

# **PETITION FOR REHEARING**

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# SUPREME COURT OF KENTUCKY

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File No. 75-685

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JOHANNA GEEVER,

Appellant,

vs.

CHESTER L. GEEVER,

Appellee.

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## APPELLANT'S PETITION FOR REHEARING

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**FILED**

JUN 13 1976

JOSEPH S. FREELAND

305 Citizens Bank & Trust Company Building  
Paducah, Kentucky 42001

Attorney for Appellant

MARTHA LAYNE COLLINS  
CLERK

SUPREME COURT

Service of the within petition has been made  
upon Hon. Wells Overbey, Attorney for Ap-  
pellee, and Hon. James M. Lassiter, Circuit  
Judge, as required by RAP 1.250.

  
Attorney for Appellant



# SUPREME COURT OF KENTUCKY

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File No. 75-685

---

JOHANNA GEEVER,

Appellant,

vs.

CHESTER L. GEEVER,

Appellee.

---

## APPELLANT'S PETITION FOR REHEARING

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MAY IT PLEASE THE COURT:

Because she believes a manifest injustice has been done her, first by the decree of the circuit court and then by the affirmance of the decree by this Court, appellant is impelled to file this petition for rehearing.

The sole question in the case is the adequacy *vel non* of the lump sum award of maintenance made to her by the circuit court in the amount of \$1,000.00. This Court has, unfortunately we think, taken the easy way out, in responding to this question, by simply holding that the trial court did not abuse its discretion. Appellant insists that such is not the case.

We shall not here reiterate the statement of the facts (undisputed by appellee) contained in appellant's main brief. We urge

the Court, however, to review those facts again, and to reconsider whether or not appellant has been treated justly and fairly under all the circumstances shown. If such reconsideration be carefully given, it is appellant's sincere belief that the Court will reach a conclusion diametrically opposite to that stated in its opinion previously delivered.

Respectfully submitted

JOSEPH S. FREELAND

305 Citizens Bank & Trust Co. Building  
Paducah, Kentucky 42001  
Attorney for Appellant

## APPENDIX

Rendered:

May 7, 1976

Supreme Court of Kentucky

75-685

Johanna Geever,

Appellant,

Appeal From Calloway Circuit Court

v.       Honorable James M. Lassiter Judge  
Civil Action No. 4065

Chester L. Geever,

Appellee.

**MEMORANDUM OPINION PER CURIAM  
AFFIRMING**

In this dissolution of marriage proceeding the only question before the court concerns the adequacy of a maintenance allowance awarded the wife, Johanna Geever. Johanna and Chester were married on May 1, 1971, and the dissolution decree and order was entered by the trial court on May 5, 1975. The trial court found that Johanna and Chester had not, during their four years of marriage, accumulated any marital property subject to division. However, both of them had brought to the marriage personal property and money. Any property acquired during their marriage had been acquired by them individually and paid for by them out of funds which they had accumulated prior to the marriage. The trial court found these facts to exist and directed that the nonmarital property be distributed as required by KRS 403.190. The findings of the court are quite extensive and property restored is listed in detail. Although the court made no finding concerning the necessity for a maintenance award to

Johanna nor of the estate owned by Chester nor of his ability to pay maintenance, it awarded Johanna the sum of \$1,000 "in full settlement of claims of petitioner for marital property, alimony, maintenance and all other claims of every kind or description growing out of the marriage of petitioner and respondent." A motion to increase the marital allowance was overruled.

Upon this appeal Johanna asserts that the circuit court did not make her an adequate award as required by KRS 403.200. Although maintenance awards are permitted or required by the statute, it is necessary that the trial court find that certain conditions exist before an award may be required. Even after a trial court has determined that all of the legal conditions necessary for an award of maintenance are satisfied, it is vested with a wide discretion in determining the amount and method of payment of money awarded by way of maintenance.

This court's examination of the record brings it to the conclusion that the award of the trial court was clearly within bounds and that there was no abuse of the discretion vested in the trial court in awarding the maintenance as set out in this proceeding.

The judgment is affirmed.

All concur.

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